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REMARKS

Applicants appreciate the Examiner's thorough examination of the subject application.

Claims 1-18 are pending this application. Claim 19 was previously withdrawn.

The Examiner rejected claims 1-18 as indefinite under 35 U.S.C. §112, second paragraph.

Applicants traverse the Examiner's so called undue breadth rejection based on 35 U.S.C. §112, second paragraph. Applicants submit that the Examiner's basis for rejection that the claims have "undue breadth" is not a valid basis for rejection under §112, second paragraph. Contrary to the Examiner's assertions, Applicants have amended the claims previously in response to the Examiner's requests in order to distinguish the present invention from the prior art. This is evidenced by the Examiner's latest rejection, which is based on new art that was not previously used by the Examiner in arguing his rejections.

Further, Examiner states that:

[f]urther, applicant has not argued any narrower interpretation of the claim language nor amended the claims significantly enough to construe a narrower meaning to the limitations. . . . Lastly, Applicant employs broad language which includes the use of words and phrases which have broad meanings in the art; Applicant employs terminology which has broad meaning in the art and thus requires a broad interpretation of the claims." See Examiner's Action of September 9, 2003, paragraph 11.

Applicants contend that claims 1-18 particularly point out and distinctly claim the subject matter, which Applicants regard as their invention. Nothing in the art cited by the Examiner would require Applicants to ascribe any interpretation to the claims other than that already argued. Applicants' specification supports the claims as presented and argued, and also supports broad and narrower claims. The art cited does not teach features of the invention that would

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require Applicants to narrow the scope of the claims. That is, the claims distinguish over the cited art, as will be discussed below, and the Examiner has not produced any references that would require Applicants to narrow the scope of the claims. It is improper in a "*predictable art*" for the Examiner to use a rejection under §112, second paragraph to narrow the scope of the claims in lieu of furnishing prior art. *See MPEP §2164.03 (8th Ed. February 2003).*

With respect to specific rejections under 35 U.S.C. §112, second paragraph, Applicants have amended claim 3 to recite selecting one of the plurality of processes using the scheduler thread. Applicants have also amended claim 15 to recite that instructions cause the computer to assign, with a scheduler thread, one of the plurality of ports to one of the plurality of processes . . . using the scheduler thread to select one of the plurality of processes.

The Examiner's rejection of claims 5 and 16 based on lack of antecedent basis for the phrase "process the data" is respectfully traversed. Applicants submit that there is sufficient antecedent basis for "the data" in base claims 1 and 13, which are the claims that claims 5 and 16 depend on.

Applicants have however amended claim 5 to recite determining using the scheduler thread if any of the plurality of processes is available to process the data. In addition, claim 16 has been amended to recite that the instructions cause the computer to determine, with the scheduler thread, if any of the plurality of processes is available to process the data; and choose, with the scheduler thread, an available one of the plurality of processes if it is determined that one of the plurality of processes is available to process the data.

The Examiner has rejected claims 1 and 13, stating:

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Claim 1 and 13 recite "the plurality of processes including at least one thread" in Line 4 of Claim 1 and Line 5 of Claim 13. It is unclear why this limitation was deleted from each preamble, which would have provided proper antecedent basis for this limitation, if Applicant intends that each of the plurality of processes include at least one thread, as assumed and previously claimed. Thus it is unclear what portion or limitation of the claim(s) are intended to "include at least one thread". See Examiner's Action of September 9, 2003, paragraph 14.

Applicants submit that the Examiner's argument has been obviated. Applicants have amended claims 1 and 13 to recite "... one of the plurality of processes including at least one thread . . ." In addition, Applicants submit that "the plurality of processes, with the one of the plurality of processes executing at least one thread" is properly introduced in the claim and has antecedent basis.

The Examiner rejected claims 1-18, as anticipated under 35 U.S.C. §102(b) by Yasrebi (U.S. 5,463,625), or alternatively, as anticipated under 35 U.S.C. §102(e) by Yasrebi (U.S. 6,141,689).

Claims 1 and 13 are rejected by the Examiner as being anticipated by Yasrebi '625, and Yasrebi '689. In his rejection of claims 1 and 13, the Examiner bracketed the words "with a scheduling thread." Applicants interpret this choice of text and bracketing to indicate that the Examiner admits that the "scheduling thread" is not found in either of the two Yasrebi references. Indeed, neither Yasrebi '625 nor Yasrebi '689 disclose the use of a scheduling thread.

Claim 1 recites "assigning one of a plurality of ports to one of a plurality of processes with a scheduling thread," while Claim 13 recites a computer-readable medium having instructions that cause a computer to "assign, with a scheduling thread, one of the plurality of

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ports to one of the plurality of processes including at least one thread." At least these features of claims 1 and 13 distinguish over either Yasrebi reference.

In contrast, Yasrebi '625 recites the use of remote procedure calls for allocating and controlling hardware resources in LAN and WAN environments. See Yasrebi '625, column 7, lines 2-10. Further, Yasrebi '689 discloses the binding of device to physical port using, *inter alia*, Virtual Handle Support, Master Logic Support, and Physical Device Support. See Yasrebi '689, column 9, lines 11-16. None of these "support devices" is a scheduling thread and thus the Yasrebi patents to not anticipate each and every element of claim 1 and 13.

Applicants respectfully submit that Yasrebi patents neither describe nor suggest other features of independent claims 1 and 13. Yasrebi '625 column 8, line 30, discloses a "gateway server configured to allow multiple parallel executor threads." Yasrebi '689 column 12 lines 26-30 discloses "RPCs can be made from any of the threads, while others are allocated to one of the specific functional categories." Yasrebi '689, column 11, lines 13 – 16 discloses marking of a port as idle, resetting the port, and generating a return code. Finally, Yasrebi '689 column 10 lines 24-30 teaches a server gateway generating a unique virtual handle to identify a client. None of these cited passages disclose assigning ports to processes, nor do the passages teach or suggest the use of a scheduling thread assigning one of the plurality of ports to one of the plurality of processes including at least one thread.

The Examiner has rejected claims 2 and 14 based on Yasrebi '689, *inter alia*, column 11, lines 10-21. Applicants submit that this passage does not recite a method or article that incorporates a scheduler thread. Instead, this passage recites contingencies depending on

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whether a call attempt is successful not. Thus, Yasrebi '689, column 11, lines 10-21 does not anticipate claims 2 or 14.

The Examiner has rejected claims 3 and 15 without explicitly stating the reason for such rejection. Applicants submit that none of the cited references teach or suggest claim 3 wherein assigning further comprises selecting one of the plurality of processes using the scheduler thread or claim 15 wherein causing a computer to assign, with the scheduler thread, one of the plurality of ports to one of the plurality of processes, with the one of the plurality of processes executing at least one thread, using the scheduler thread to select one of the plurality of processes.

The Examiner has rejected claim 4 based on Yasrebi '689, *inter alia*, Figure 2, and column 5, lines 35-38, and columns 10, lines 17-23.

Yasrebi '689, Figure 2 illustrates concurrent RPCs between client and server. Yasrebi '689, column 5, lines 35-38, mentions returning a virtual image for triggering a need for binding an RPC to a port. Column 10, lines 17-23 mentions information about a "handle." None of these citations however suggest a scheduling thread directing transfer of data from an assigned port to one of a plurality of processes.

The Examiner rejected claims 5 and 16 based on Yasrebi '689, column 7, lines 51-58, and column 10, line 38 through column 11, line 9. Column 7, lines 51-58 discloses communications between a client and server. Column 10, line 38, through column 11, line 9, disclose the use of virtual handles for the location and selection of ports. Neither of these citations suggest use of a scheduling thread. Thus, Applicants respectfully traverse these rejections.

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The Examiner has rejected claims 6 and 17 without explicitly stating the reason for such rejection. Applicants submit that none of the cited references recite limitations of claims 6 or 17.

The Examiner has rejected claims 7 and 18 based on Yasrebi '689, column 12, lines 6-8. Column 12, lines 6-8 disclose port direction either statically configured or dynamically set by a server. There is no suggestion of an assignment removed by a scheduling thread upon receiving notice that the processing has been completed.

Claims 8-12 include additional features and are allowable with their respective base claims.

In view of the foregoing response to Notice of Non-Compliant Amendment, claims 1-18 are believed to be in condition for allowance and such action is requested. No fee is believed due. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 10559-133001.

Respectfully submitted,

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